

In paragraph 3 of the Office Action, the Examiner has rejected claims 1-50 "under 35 U.S.C. §112, first paragraph, as based on a disclosure which is not enabling." Essentially, the Examiner refers to specific sections of the written specification to attempt to support his position that it is essential and critical to the invention that the claimed migratory slip agent be an amide, and that the claimed additive in the slip layer be an antistatic agent.

Although all of the examples discussed in the application specifically identify amides as a slip agent, and the additive in the slip layer as being an antistatic agent, applicant submits that the breadth of originally presented claim 1 is commensurate in scope with the breadth of the invention described in the specification.

However, in order to expedite prosecution of this application, and without prejudice to the filing of a continuation application including broader claims, applicant has amended the claims in this application to specify that the slip agent is a migratory amide, and that the additive in the slip layer is an antistatic agent. These amendments should overcome the rejection of claims 1-50 under 35 U.S.C. §112.

In paragraph 5, the Examiner has rejected claims 1-50 "under 35 U.S.C. §103(a) as being unpatentable over applicant's admissions concerning the prior art set forth at page 3, lines 7-15, taken in view of Frognet et al."

Applicant has amended the paragraph beginning on line 7 of page 3 to correct an inaccuracy in identifying the structure of prior art, coextruded, multilayer polyolefin films known to him. Specifically, after receiving the Office Action, applicant realized that he was speculating when he acknowledged that he was aware of prior art polyolefin films that have included an antistatic additive in an outer skin layer and a migratory amide in the core

layer. In fact, to the best of applicant's knowledge, both antistatic additives and migratory amides have been employed in a single, multilayer polyolefin film; however, applicant is only aware of these additives being employed in the same layer. Specifically, applicant has absolutely no knowledge of any prior art construction including an antistatic additive in an outer skin layer and a migratory amide in the core layer, let alone, any prior art structure in which a migratory amide is employed in the core layer and an antistatic additive is employed in the outer skin layer for the purpose of achieving the specified COF and adhesion properties for adhesive label applications, as in the present invention.

Included with this Amendment is a Declaration of the inventor, essentially acknowledging his error in identifying prior art structures as including an antistatic additive in the outer skin layer and a migratory amide in the core layer. As a point of interest, the prior art documents uncovered by the Examiner in his searches likewise do not identify any prior art structures including a migratory amide in the core layer and an antistatic additive in the outer skin layer.

In view of the admitted error in identifying prior art structures, the rejection of claims 1-50 under 35 U.S.C. §103(a), which relies principally upon applicant's erroneous admissions, is no longer applicable, and accordingly, claims 1-50 set forth patentably novel subject matter over the prior art cited by the Examiner.

As a further point of distinction, it should be noted that the Frognet et al. patent is not remotely related to a biaxially oriented multilayer film having the structure specified in the claims in the present application. For example, although the Frognet et al. patent suggests that slip agents can be used in conjunction with certain antistatic agents to reduce coefficient of friction, the structures disclosed in Frognet et al. employ both of these

latter agents in the same layer; namely, in the identified intermediate layer. There is absolutely no teaching in Frognet et al. of providing a migratory slip agent in a core layer and an antistatic agent in an outer slip layer of a multilayer structure to provide mutual barriers impeding the migration of the slip agent into the outer slip layer and the antistatic agent into the core layer. This latter arrangement for at least partially impeding the diffusion of the slip agent to the surface of the skin layer and the antistatic agent into the core layer is neither shown nor suggested in the Frognet et al. patent, or for that matter in any of the other patents made of record by the Patent Examiner.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**Version with Markings to Show Changes Made.**"

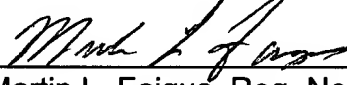
In view of the above remarks, applicant submits that all of the claims presented for consideration herein sets forth patentably novel subject matter, and accordingly an indication to that effect is respectfully requested.

Respectfully submitted,

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By

  
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### CERTIFICATE OF MAILING

I hereby certify that the foregoing AMENDMENT, Transmittal Letter, and Declaration of William John Waywood re Application Serial No. 09/916,053, are being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, Box Non-Fee Amendment, Washington, D.C. 20231, this 10<sup>th</sup> day of January, 2003.

  
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Martin L. Faigus

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

Replace the paragraph beginning on line 7 of page 3, with the following:

Although coextruded, multilayer polyolefin films have included both an antistatic additive [in an outer skin layer] and a migratory amide in them [the core layer], to the best of Applicant's knowledge no prior art, coextruded multilayer film has included an antistatic agent in an outer skin layer and a migratory amide in the core layer for any purpose, let alone [these additives have not been employed] for the purposes of reducing the COF of the skin layer against metal machine surfaces, such as metal surfaces in labeling machines, and of providing desired adhesion properties to adhesives employed in labels. Stating this another way, [A]applicant is not aware of any prior art films in which the types and amounts of an antistatic additive in the outer skin and a migratory amide in the core are employed for any purpose, let alone to achieve the desired COF and adhesion properties desired for adhesive label applications, as in the present invention.

In the Claims:

Please rewrite Claim 1 in the following manner:

1. (Amended) A biaxially oriented multilayer film usable to form adhesive labels to be attached to containers, such as bottles and cans, said film including a core layer comprising polypropylene and a migratory slip agent in the form of a migratory amide and an outer slip layer on one side of the core layer, said slip layer including primarily

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polypropylene, by weight, and a minor percent, by weight, of an [additive] antistatic agent, said [additive] antistatic agent and said amide [migratory slip agent] being present in amounts to provide a COF on the surface of the slip layer of no greater than 0.45 and to provide an adhesion of the adhesive employed on the formed label for the slip layer of at least 50%.

Cancel Claim 2.

Please rewrite Claim 3 in the following manner:

3. (Amended) The biaxially oriented multilayer film of claim 1 [2], wherein the amide is behenamide.

Please rewrite Claim 4 in the following manner:

4. (Amended) The biaxially oriented multilayer film of claim 1 [2], wherein said migratory amide is present in a percentage, by weight, of at least 0.10%, based upon the weight of the core layer.

Cancel Claim 7.

Please rewrite Claim 8 in the following manner:

8. (Amended) The biaxially oriented multilayer film of claim 1 [7], wherein the antistatic agent includes an ethoxylated alkyamine and/or an ethoxylated alkyamide.

Please rewrite Claim 28 in the following manner:

28. (Amended) A biaxially oriented multilayer label to be attached to containers, such as bottles and cans, said label including a core layer comprising polypropylene and a migratory slip agent in the form of a migratory amide, an outer slip layer on one side of the core layer, said slip layer including primarily polypropylene, by weight, and a minor percent, by weight, of an [additive] antistatic agent, an inner layer on the side of the core

layer opposite the outer slip layer, and an additional film having an inner surface adhered to an outer surface of the inner layer and an opposed, outer surface including an adhesive thereon, printed indicia on the outer surface of the inner layer or on the inner surface of the additional film, one end of said outer surface of said additional film being attachable to a container surface through the adhesive thereon and an opposed end of said outer surface of said additional film overlapping and being adhesively attachable to an outer surface of the slip layer when the label is attached to a container, said [additive] antistatic agent and said migratory amide being present in amounts to provide a COF on the surface of the slip layer of no greater than 0.45 and to provide an adhesion of the adhesive for the slip layer of at least 50%.

Cancel claim 29.

Please rewrite claim 30 in the following manner:

30. (Amended) The biaxially oriented multilayer label of claim 28 [29], wherein the amide is behenamide.

Please rewrite claim 31 in the following manner:

31. (Amended) The biaxially oriented multilayer label of claim 28 [29], wherein said migratory amide is presented in a percentage, by weight, of at least 0.10%, based upon the weight of the core layer.

Cancel claim 34.

Please rewrite claim 35 in the following manner:

35. (Amended) The biaxially oriented multilayer of claim 28 [34], wherein the antistatic agent includes an ethoxylated alkyamine and/or an ethoxylated alkylamide.